



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

APR 10 2014

OFFICE OF
ENFORCEMENT AND
COMPLIANCE ASSURANCE

Via email and Regular Mail

Paul F. Teta, Vice President and General Counsel
Kolmar Americas, Inc.
10 Middle Street, Penthouse
Bridgeport, Connecticut 06604

Re: e-Biofuels, LLC - Notice of Violation

Dear Mr. Teta:

I am writing in response to your letter dated February 11, 2014. In that letter you expressed concerns about the United States Environmental Protection Agency's recent actions regarding renewable identification numbers generated by e-Biofuels, LLC. You requested that the EPA provide Kolmar Americas, Inc. with specific information regarding why the EPA alleged that e-Biofuels generated invalid renewable fuel identification numbers and asked that EPA "eliminate the requirement that innocent purchasers of e-Biofuels RINs that were attached to physical product be burdened with replacing those RINs."

Let me start by acknowledging that I agree that Kolmar has been a strong supporter of the RFS program and EPA's enforcement efforts. I appreciate your support of the EPA's efforts and recognize the difficulties faced by market participants when renewable fuel producers generate invalid RINs.

First, the EPA will not disclose information regarding the Agency's decision to issue a Notice of Violation to e-Biofuels because the release of this information could interfere with a pending or ongoing law enforcement action. You can, however, find information regarding a complaint filed by the Security and Exchange Commission and a criminal indictment filed by the Department of Justice relating to e-Biofuels' RIN generation activities at the websites identified below.¹ I will also note that at least one defendant in that matter has entered a plea of guilty.

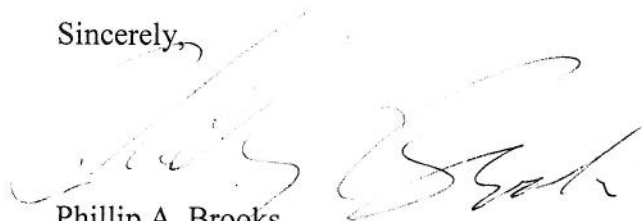
¹ SEC Charges Indiana-Based Company and Executives for Defrauding Investors in Renewable Fuel Production Scheme, SEC.gov, <http://www.sec.gov/News/PressRelease/Detail/PressRelease/1370539817118> (Sept. 18, 2013) (see also link to SEC indictment on right side of page). Six Individuals, Three Corporations Charged in Indiana-based Biofuels Fraud Scheme, Justice.gov, <http://www.justice.gov/opa/pr/2013/September/13-enrd-1040.html> (Sept. 18, 2013). See also EPA Response to December 20, 2013, letter from American Fuel and Petrochemical Manufacturers, <http://www2.epa.gov/sites/production/files/2014-02/documents/epareponsetoafpmletter.pdf>.

As to your second request, the Energy Independence and Security Act of 2007 and the RFS regulations explicitly require the use of valid RINs to meet a Renewable Volume Obligation. From the inception of the RFS program, the EPA has made clear that it is the responsibility of obligated parties and renewable fuel exporters to ensure that they use valid RINs to demonstrate compliance and that there would be no safe harbor provisions with regard to invalid RINs. Simply put, invalid RINs cannot be used to satisfy an RVO even if there was a good faith belief that the RINs were valid when purchased and used.

One final matter deserves mention. You assert that EPA has "invalidated" certain RINs generated by e-Biofuels. Actually, the current RFS regulations do not include a mechanism for the EPA to administratively invalidate RINs. Instead, the EPA issued e-Biofuels, LLC and Imperial Petroleum, Inc. a Notice of Violation (NOV) on December 18, 2013. This NOV informed the receiving companies that the EPA alleges that those companies had violated the law by improperly generating RINs over a specific time period.

Although the EPA is not approving Kolmar's request to eliminate the requirement that obligated parties replace invalid RINs, please be assured that we will continue to monitor the impact of invalid RINs on the obligated parties and RFS program. Given your long-standing support of the RFS Program, if you would like to discuss these matters further in person, we can arrange a time to do so.

Sincerely,

A handwritten signature in dark ink, appearing to read "Phillip A. Brooks", is written over the typed name and title.

Phillip A. Brooks,
Director
Air Enforcement Division
Office of Civil Enforcement